

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 30, 2005

10:03 A.M.

Reported by:
Peter Petty
Contract No. 150-04-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Acting Chairperson

Arthur Rosenfeld

James D. Boyd

John Geesman

STAFF PRESENT

Scott Matthews, Acting Executive Director

William Chamberlain, Chief Counsel

Betty McCann, Secretariat

Steve Munro

Mazi Shirakh

Bill Pennington

Tav Commins

Joseph Wang

Nancy Jenkins

Kevin Kennedy

PUBLIC ADVISER

Nick Bartsch

ALSO PRESENT

Robert Raymer
California Building Industry Association

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1 P R O C E E D I N G S

2 10:03 a.m.

3 ACTING CHAIRPERSON PFANNENSTIEL: The
4 meeting will be in order. Commissioner Rosenfeld,
5 lead the Pledge, please.

6 (Whereupon the Pledge of Allegiance was
7 recited in unison.)

8 ACTING CHAIRPERSON PFANNENSTIEL: Good
9 morning. Consent calendar.

10 COMMISSIONER ROSENFELD: I move the
11 consent calendar.

12 COMMISSIONER GEESMAN: Second.

13 ACTING CHAIRPERSON PFANNENSTIEL:
14 Motion, Rosenfeld; second, Geesman.

15 In favor?

16 (Ayes.)

17 ACTING CHAIRPERSON PFANNENSTIEL:
18 Opposed? Four nothing.

19 Item 2 on the agenda, I understand, is
20 being held for the meeting of the 13th, our next
21 business meeting.

22 Item 3, Blythe Energy LLC. Possible
23 approval of a petition to raise carbon monoxide
24 emission limits during gas turbine startups and
25 shutdowns, reduce CO emission limits during normal

1 operations and make other changes. Yes, Mr.
2 Munro.

3 MR. MUNRO: Yes, thank you, Commissioner
4 Pfannenstiel. My name is Steve Munro; I'm the
5 Compliance Project Manager for the Blythe Energy
6 Power Plant project in Blythe, California. I'm
7 here to talk about the petition to change the air
8 quality conditions of certification for the
9 project.

10 Blythe is a 520 megawatt, natural-gas
11 fired, combined cycle project, owned and operated
12 by Blythe Energy LLC, a wholly owned subsidiary of
13 FPL Energy. It was certified March 21, 2001;
14 began commercial operation on December 29, 2003.

15 Received the petition dated November 2,
16 2004 to make changes to the air quality conditions
17 of certification regarding startup and shutdown of
18 commissioned turbines -- or the combustion
19 turbines.

20 Basically what we're talking about are
21 changes to the carbon monoxide limits. First is
22 the increases to the startup and shutdown emission
23 limits for carbon monoxide from 403 pounds per
24 event to 3600 pounds per event. Also increases to
25 the daily emission limits from 3808 to 8004 pounds

1 per day. And annual CO emission limits from 306
2 to 621 tons per year for the combustion equipment.

3 Hot, warm and cold startup requirements
4 will be replaced with a single set of limits for
5 all startups to simplify data requirements.

6 And this last point is very important.
7 The hourly emission limit for CO during normal
8 operation will be reduced by more than half from
9 35.2 pounds per hour to 17.5 pounds per hour due
10 to a reduction in the federal BACT requirement to
11 4.0 parts per billion of CO.

12 There will be no changes in emission
13 limits for any other air emission constituents.

14 The reason for this request is that the
15 original manufacturer's estimates on which the
16 original startup and shutdown limits were based
17 have proven to be significantly lower than the
18 actual emissions during these events. Not only at
19 this project, but also at others.

20 This is the 17th similar amendment for
21 projects that were licensed in 2000/2001
22 timeframe.

23 Staff concludes that there will be no
24 significant impacts because modeling demonstrates
25 that the increased emission limits will not cause

1 a violation of federal or state ambient air
2 quality standards.

3 Specific conditions for which
4 modifications are requested are conditions AQ-5,
5 AQ-6, AQ-7 and AQ-8.

6 In summary, staff recommends that the
7 Commission approve the proposed revisions to the
8 air quality conditions of certification. I might
9 just add that we did send out a copy of the staff
10 analysis for public review and received no
11 comments.

12 Thank you.

13 ACTING CHAIRPERSON PFANNENSTIEL: Thank
14 you. Is there discussion?

15 COMMISSIONER GEESMAN: The Siting
16 Committee reviewed this matter and I would move
17 the staff recommendation.

18 COMMISSIONER BOYD: And I would second
19 it for probably the 17th time.

20 (Laughter.)

21 ACTING CHAIRPERSON PFANNENSTIEL: Thank
22 you. Motion, Geesman; second, Boyd.

23 All in favor?

24 (Ayes.)

25 ACTING CHAIRPERSON PFANNENSTIEL:

1 Opposed? Carried four nothing.

2 Item 4, --

3 MR. MUNRO: Thank you very much.

4 ACTING CHAIRPERSON PFANNENSTIEL: --

5 2005 nonresidential energy efficiency standards
6 compliance manual. Possible approval of the 2005
7 nonresidential energy efficiency standards
8 compliance manual that explains the standards
9 requirements. The 2005 building energy efficiency
10 standards were adopted in November 2003 and are
11 scheduled to become effective October 1, 2005.

12 MR. SHIRAKH: Good morning,
13 Commissioners. Items 4 and 5 are closely related
14 so I'm going to present them together.

15 ACTING CHAIRPERSON PFANNENSTIEL: Fine,
16 let me introduce item 5, and then you can do both.

17 MR. SHIRAKH: Sure.

18 ACTING CHAIRPERSON PFANNENSTIEL: Item 5
19 reads: 2005 residential energy efficiency
20 standards compliance manual. Possible approval of
21 the 2005 residential energy efficiency standards
22 compliance manual. The 2005 building energy
23 efficiency standards were adopted November 2003
24 and are scheduled to become effective on October
25 1, 2005.

1 Go ahead.

2 MR. SHIRAKH: Thank you. The Energy
3 Commission adopted the 2005 building energy
4 standards in November of 2003, as just stated.
5 The standards are currently scheduled to become
6 effective October 1, 2005.

7 The 2005 residential and nonresidential
8 compliance manuals are the documents that
9 explained the standards requirements on how to
10 comply with them in layman term for use by
11 building officials, building designers, engineers,
12 architects, trainers, staff and others for
13 compliance, enforcement and training purposes.

14 The nonresidential compliance manual
15 cover nonresidential buildings, high rise
16 residential and hotels and motels.

17 Residential compliance manual explains
18 the standards requirements for low rise
19 residential buildings.

20 The two manuals are used as the basis
21 for training on the standards to a wide range of
22 building industry professionals and trade groups,
23 and are used as a reference for easy look-up to
24 find out how to address specific standards
25 provisions.

1 Over the past years staff has solicited
2 and addressed comments from interested parties. A
3 wide group of folks have provided comments on the
4 standards, our consultants, utilities' consultants
5 and members of public in general, builders,
6 designers. And we probably received over 1000
7 comment related to each manual. And we processed
8 all of them and responded. And most of them got
9 incorporated in both manuals.

10 The Warren Alquist Act requires that the
11 Energy Commission make the manuals available to
12 the public at least six months prior to the
13 effective date of the standards, which would make
14 it April 1. We've cut it very close.

15 The compliance manuals are divided into
16 several chapters and cover compliance requirements
17 for building envelope, mechanical equipment,
18 lighting equipment and acceptance requirements in
19 the nonres manual. They provide guidance for
20 prescriptive and performance compliance
21 approaches.

22 So, with that, I'm available for any
23 questions that you may have.

24 ACTING CHAIRPERSON PFANNENSTIEL: Thank
25 you, Mazi. We do have Mr. Raymer who would like

1 to speak on this item.

2 MR. RAYMER: Thank you, Madam Chair and
3 Commissioners. I'm Bob Raymer, Technical Director
4 for the California Building Industry Association.
5 And as the blue card should indicate, we strongly
6 support approval today of the residential
7 compliance manual.

8 We'd also like to thank staff for
9 working with us. We and the building officials
10 were pretty much missing in action for about the
11 last five years. We've had a very -- a long
12 battle over which national building code gets used
13 in the State of California. And that battle came
14 to a head over the last 12 months. But it was
15 resolved two weeks ago.

16 And we suspect, in particular with the
17 development and adoption of the 2008 standards,
18 you'll find it's much easier to get ahold of
19 building officials and industry to work on that.

20 So, once again, we support this. We do
21 have a few outstanding concerns. But these are
22 the things that we can work with staff with before
23 the 2008 standards come on us.

24 Once again, thank you very much.

25 ACTING CHAIRPERSON PFANNENSTIEL: Thank

1 you. We appreciate your comments, and we do
2 appreciate your involvement in this. I think it
3 has really made a better product for that.

4 MR. RAYMER: Thank you.

5 ACTING CHAIRPERSON PFANNENSTIEL: Thank
6 you for that.

7 There's a Mr. Chapman who might want to
8 speak on this?

9 MR. CHAPMAN: Well, thank you for
10 recognizing me. I would not, based on the
11 comments.

12 ACTING CHAIRPERSON PFANNENSTIEL: Any
13 discussion of the Commission?

14 COMMISSIONER ROSENFELD: I'm ready to
15 move items 4 and 5.

16 ACTING CHAIRPERSON PFANNENSTIEL: Thank
17 you. Is there a second?

18 COMMISSIONER GEESMAN: I'll second.

19 ACTING CHAIRPERSON PFANNENSTIEL:

20 Motion, Rosenfeld; second, Geesman.

21 All in favor?

22 (Ayes.)

23 ACTING CHAIRPERSON PFANNENSTIEL:

24 Opposed? Carried four to nothing.

25 COMMISSIONER ROSENFELD: And I also want

1 to thank Bob Raymer for his wonderful
2 collaboration.

3 ACTING CHAIRPERSON PFANNENSTIEL: Item
4 6, EnergyPro 4.0. Consideration and possible
5 certification of the compliance software program
6 EnergyPro 4.0 for use in complying with the 2005
7 residential building energy efficiency standards.

8 Maybe I'll -- well, let me just do one
9 at a time. Mr. Pennington.

10 MR. PENNINGTON: Actually both of these
11 are related software, so my comments kind of are
12 applicable to both.

13 ACTING CHAIRPERSON PFANNENSTIEL: Okay,
14 I'll pick up item 7 then also. Micropas 7.0.
15 Consideration and possible certification of the
16 compliance software program Micropas 7.0 for use
17 in complying with the 2005 residential building
18 energy efficiency standards.

19 Mr. Pennington.

20 MR. PENNINGTON: Thank you. I'm Bill
21 Pennington with the Commission Staff.

22 The title 24 building energy efficiency
23 standards are fundamentally performance standards.
24 And compliance is shown for a vast majority of
25 residential buildings, and about half of the

1 nonresidential buildings by use of the performance
2 approach.

3 And to accomplish that it's necessary to
4 have building energy simulation software, approved
5 by the Commission, so that that can be used for
6 showing compliance.

7 And so each time that the standards are
8 updated the compliance software needs to be
9 updated to match the new requirements.

10 We actually develop extensive rules for
11 what the compliance software must do, how they
12 must approach the evaluation of particular
13 measures, what kind of input they should accept,
14 what kind of output they must produce for building
15 officials so that we can standardize this as much
16 as possible; and so that we can establish a
17 consistency across the compliance software that's
18 provided by different developers.

19 And we adopt those rules in a rulemaking
20 along at the same time that we adopt the building
21 standards. We call the documents the alternative
22 calculation method approval manuals that we adopt.
23 And in that are a set of rules, extensive rules,
24 for what the software must do.

25 And it's the Commission's obligation to

1 review applications for approval of compliance
2 software against that rule set. And the staff
3 verifies that the programs are consistent with
4 those rules.

5 We have just been through an extensive
6 process here that got accelerated on the behest of
7 the California Building Industry Association to
8 get the software necessary for the residential
9 standards developed and finalized. And get it in
10 for the Commission to approve it so that there
11 could be a maximum opportunity for builders to
12 preplan as they're approaching the building
13 construction season of the summer of 2005 to get
14 their subdivisions to comply with the standards
15 essentially in advance, if you will, of the
16 effective date, so that there will be consistency
17 across the buildout of their subdivision.

18 And so the two vendors of software here
19 have actually made a heroic effort to update their
20 programs faster than they were intending. And the
21 staff has reviewed that, and we find their
22 programs acceptable and recommend that they be
23 approved.

24 ACTING CHAIRPERSON PFANNENSTIEL: Thank
25 you very much. Mr. Raymer, did you want to speak

1 on this item, also?

2 MR. RAYMER: Yes. Thank you, Madam
3 Chair and Commissioners. Bob Raymer with the
4 California Building Industry Association.

5 As Mr. Pennington just indicated staff
6 and the vendor certainly accelerated their
7 completion of, in particular, Micropas 7.0, at the
8 behest of CBIA.

9 As we've had in earlier discussions, it
10 can easily take -- we need access to this about 10
11 to 12 months prior to the effective date of the
12 standards so that we can have sort of a seamless
13 transition from one set of regulations to another.

14 And we understand that's not in the
15 cards right now. We're not suggesting a change of
16 the effective date. But we're very appreciative
17 of what staff and the vendor has done in this
18 case. It probably would have been about another
19 month and a half to two months, and we definitely
20 needed access to that amount of time.

21 And we do have many many projects,
22 hundreds and hundreds of units, that are waiting
23 to undergo this certification right now.

24 Having said that, I was speaking with
25 the vendor of this product before the meeting

1 started on an issue that's not related to
2 compliance with our energy standards, but an
3 important one, and that is the new standards will
4 be using time-dependent variable, the TDV, as of
5 October 1st. They used to be based on source
6 energy.

7 Now, there are a number of things that
8 we will still be using source energy for, other
9 than we won't be using it for the compliance
10 analysis, of course. But such things as basically
11 showing base for EnergyStar designation, federally
12 insured mortgages and comparative analysis with
13 previous California and federal standards.

14 These are sort of peripheral issues to
15 what we're talking about today. We're only
16 concerned with compliance today, but it's my
17 understanding in talking to the vendor that we
18 will still have the capability of accessing a
19 source energy compliance approach so that we can
20 do these types of analysis.

21 Right now at the federal level, maybe
22 they'll be following our lead in the future. I
23 suspect they will. But right now they're still
24 doing it the old fashioned way. And to get,
25 basically show compliance with certain federal

1 requirements for federally insured mortgage
2 financing, they don't know what TDV is. I suspect
3 they'll learn very quickly, though.

4 Having said that, though, I'd like to
5 strongly support certification of these compliance
6 softwares today. Thank you.

7 COMMISSIONER ROSENFELD: I have a
8 question, Bob.

9 MR. RAYMER: Sure.

10 COMMISSIONER ROSENFELD: Or Bob and
11 Bill. This isn't an issue, though, right? The
12 program can certainly print out the old fashioned
13 TDV -- old fashioned resource energy?

14 MR. RAYMER: Okay, it's my understanding
15 that it can. I came into this meeting thinking
16 that it may not be in the new program right now,
17 but it's my understanding that it is. Our
18 consultants simply need to understand how to
19 effectively access that function of this new
20 program.

21 But apparently, I've been told that it
22 clearly is still available. So this should be a
23 non-problem.

24 COMMISSIONER ROSENFELD: Thanks.

25 ACTING CHAIRPERSON PFANNENSTIEL: Thank

1 you.

2 MR. RAYMER: Thank you.

3 ACTING CHAIRPERSON PFANNENSTIEL:

4 Further discussion?

5 COMMISSIONER ROSENFELD: I like this

6 cadence, two motions at a time and thank Bob

7 Raymer. So I move items 6 and 7.

8 COMMISSIONER BOYD: I'll second them.

9 ACTING CHAIRPERSON PFANNENSTIEL: And so

10 I want to just be clear that we are then voting on

11 certification of both EnergyPro 4.0 and Micropas

12 7.0 at once.

13 MR. PENNINGTON: Yes.

14 ACTING CHAIRPERSON PFANNENSTIEL: In

15 favor?

16 (Ayes.)

17 ACTING CHAIRPERSON PFANNENSTIEL:

18 Opposed? Carried four nothing. Thank you.

19 MR. PENNINGTON: Thank you.

20 ACTING CHAIRPERSON PFANNENSTIEL: Item

21 8, California Commissioning Collaborative.

22 Possible approval of contract 400-04-013 for

23 \$50,000 to develop a training curriculum and

24 provide training for the 2005 building energy

25 efficiency standards.

1 MR. COMMINS: My name is Tav Commins;
2 I'm staff with the Energy Commission.

3 So this \$50,000 contract is with the
4 California Commissioning Collaborative, and it
5 will develop the curriculum and provide training
6 on the new acceptance requirements that are in the
7 2005 energy standards.

8 This Collaborative is made up of
9 California utilities, various state agencies,
10 Department of Energy and commissioning agents.
11 And this Collaborative promotes education,
12 training, stronger building codes and
13 commissioning standards to make sure that building
14 systems are designed, built and operated as
15 intended.

16 The Collaborative developed a list of
17 goals to increase commissioning in California.
18 And one of these goals is to develop a training
19 curriculum for the new acceptance requirements
20 that are required under the standards.

21 Under this contract the contractor will
22 develop three separate training curriculums to
23 educate building departments, test providers and
24 designers, basically all the people who are going
25 to be affected directly by these new requirements.

1 The contract will train these groups and
2 advertise the new codes and publications. And
3 provide training classes at scheduled times in the
4 advertising.

5 Awareness of these new acceptance
6 requirements and proper training are essential to
7 insure that the revised standards have the desired
8 effect in the field.

9 Thank you.

10 ACTING CHAIRPERSON PFANNENSTIEL: Thank
11 you.

12 COMMISSIONER ROSENFELD: I have a
13 question for you, Tav.

14 MR. COMMINS: Yes.

15 COMMISSIONER ROSENFELD: This
16 commissioning is both for residential and
17 nonresidential?

18 MR. COMMINS: Well, this commissioning
19 is specifically for nonresidential; it's for 12
20 specific pieces of equipment. And we have
21 specific test guidelines that they have to do on
22 each piece of equipment whether it's installed in
23 a new building or a retrofit in an old building.
24 We want to make sure that these pieces of
25 equipment actually work and operate properly.

1 COMMISSIONER ROSENFELD: Thanks.

2 ACTING CHAIRPERSON PFANNENSTIEL: Do we
3 have a motion?

4 COMMISSIONER ROSENFELD: I move 8.

5 COMMISSIONER GEESMAN: Second.

6 ACTING CHAIRPERSON PFANNENSTIEL:
7 Motion, Rosenfeld; second, Geesman.

8 All in favor?

9 (Ayes.)

10 ACTING CHAIRPERSON PFANNENSTIEL:

11 Opposed? Carried four nothing.

12 MR. COMMINS: Thank you.

13 ACTING CHAIRPERSON PFANNENSTIEL: Item
14 9, City of San Buenaventura. Possible approval of
15 a loan for \$337,920 to the City of San
16 Buenaventura to install energy efficient lighting,
17 energy management controls and variable frequency
18 drive projects at various city buildings. These
19 projects are estimated to save about \$138,000
20 annually and have a simple payback of 2.5 years.
21 Mr. Wang.

22 MR. WANG: Good morning, Commissioners.
23 My name is Joseph Wang and I'm the Project Manager
24 for this loan.

25 The City of San Buenaventura has

1 requested a loan of \$337,920 to install energy
2 efficient lighting, variable speed drives on
3 chillers and pumps, and an energy management
4 system in various city buildings.

5 The City has been working closely with
6 the Ventura County Regional Energy Alliance to
7 develop these projects. The Energy Alliance will
8 also provide over \$220,000 in financial incentives
9 to the City to implement these projects.

10 These projects will save about \$178,000
11 annually, and will have a single payback of 2.5
12 years based on the loan amount.

13 The staff has reviewed this project and
14 recommends the Commission approve this loan.

15 ACTING CHAIRPERSON PFANNENSTIEL: Thank
16 you. Any questions, discussion?

17 COMMISSIONER ROSENFELD: Anything that
18 has a simple payback time of 2.5 years is a
19 pleasure to move. I move item 9.

20 COMMISSIONER GEESMAN: Second.

21 ACTING CHAIRPERSON PFANNENSTIEL:
22 Motion, Rosenfeld; second, Geesman.

23 All in favor?

24 (Ayes.)

25 ACTING CHAIRPERSON PFANNENSTIEL:

1 Opposed? Carried four nothing.

2 MR. WANG: Thank you.

3 ACTING CHAIRPERSON PFANNENSTIEL: Number

4 10 -- thank you -- Powerlight Corporation.

5 Possible approval of contract 500-04-022 for

6 \$2,730,261 to conduct zero energy new home

7 research, development and demonstration. Ms.

8 Jenkins.

9 MS. JENKINS: Good morning,

10 Commissioners. If I could, I'd actually like to

11 continue the cadence that Commissioner Rosenfeld

12 referred to in addressing both items 10 and 11.

13 COMMISSIONER ROSENFELD: Let's do it.

14 ACTING CHAIRPERSON PFANNENSTIEL: Let me

15 introduce item 11. Architectural Energy

16 Corporation. Possible approval of contract 500-

17 04-024 for \$2,904,938 to conduct zero energy new

18 home research, development and demonstration.

19 MS. JENKINS: Thank you. So items 10

20 and 11 are the second and third contracts that we

21 are proposing as a result of our zero energy homes

22 development solicitation that we released last

23 fall.

24 As you recall, the solicitation is

25 intended to address the primary design and market

1 barriers, primarily cost barriers, that are still
2 associated with zero energy new homes.

3 We will be, with both of these
4 contracts, optimizing energy efficiency measures
5 combined with onsite PV generation through
6 building-integrated PV systems.

7 With the PowerLight project in
8 particular we will be addressing builder issues in
9 terms of developing a hassle-free turnkey approach
10 which includes design, installation, warranty and
11 financing with a single vendor.

12 With the Architectural Energy
13 Corporation project we will be addressing cost
14 barriers associated with standby partnering with a
15 large investor-owned utility, Southern California
16 Edison, who is committed to doing a distribution
17 system and electricity transmission system
18 benefits analysis in order to justify for their
19 utility continuing with incentives ZENH beyond the
20 contract term.

21 So we believe that both of these
22 projects will address a number of the design, cost
23 and market barriers that are still associated with
24 ZENH housing in California; and are requesting
25 your approval for both of these.

1 ACTING CHAIRPERSON PFANNENSTIEL: Are
2 there questions?

3 COMMISSIONER ROSENFELD: These wonderful
4 projects are well known, so I have no problem in
5 moving items 10 and 11.

6 ACTING CHAIRPERSON PFANNENSTIEL:
7 Commissioner Geesman.

8 COMMISSIONER BOYD: I'll second that.

9 ACTING CHAIRPERSON PFANNENSTIEL: You
10 had a question?

11 COMMISSIONER GEESMAN: A question, I'm
12 sorry. In view of the increased intensity of the
13 state's effort in developing a photovoltaic
14 commercialization program, these projects will
15 provide, I think, some pretty valuable input.

16 And although the scope of the program
17 being talked about for PV incentives is a ten-year
18 or longer effort, I would think that results from
19 these two projects will provide some pretty
20 important near-term or mid-term corrective
21 information.

22 And I just wanted to ask that you be
23 attentive in each of the two projects to
24 opportunities that may exist to provide us with
25 some midcourse information. We don't need to see

1 the project completed to its ultimate end, I
2 think, to harvest some valuable information. And
3 I would ask that you make certain that we're able
4 to do that.

5 MS. JENKINS: I appreciate that
6 reminder, and we will do that. Actually we're
7 very fortunate that Ann Peterson, who is formerly
8 with renewables program, is actually going to be
9 managing these projects for us. So she'll also be
10 bringing that background and knowledge to the
11 table.

12 ACTING CHAIRPERSON PFANNENSTIEL: That's
13 good. I think we're all fortunate then with that
14 move.

15 Further questions? These two items then
16 have been moved and seconded.

17 All in favor?

18 (Ayes.)

19 ACTING CHAIRPERSON PFANNENSTIEL:

20 Opposed? Carried four nothing.

21 MS. JENKINS: Thank you.

22 ACTING CHAIRPERSON PFANNENSTIEL: Thank
23 you, Nancy.

24 Item 12, 2005 Integrated Energy Policy
25 Report. Consideration and possible decision to

1 initiate enforcement activities, including issuing
2 a subpoena, for certain load-serving entities
3 subject to the Energy Commission's November 3,
4 2004 order adopting demand forecast and price
5 information forms and instructions, and January
6 19, 2005 order adopting electricity resources and
7 bulk transmission forms and instructions.

8 I understand that Mr. Kennedy will make
9 some comments on this item.

10 MR. KENNEDY: Yes, thank you,
11 Commissioner Pfannenstiel, Commissioners, good
12 morning. My name is Kevin Kennedy; I'm the
13 Program Manager for the 2005 Energy Report
14 proceeding.

15 At this point the staff is not
16 recommending actual adoption of any enforcement
17 actions or a subpoena. So what I would like to do
18 is take this opportunity to give a brief status
19 report on the filings we have received on the
20 demand side and the supply filings that were due
21 March 1st, which will provide the information on
22 why we are recommending that at this stage.

23 In terms of the demand forecast filings,
24 as we reported two weeks ago, we were in the
25 process of receiving the final filings from a

1 number of the municipal utilities. We did have
2 some particular concern about the filings from
3 Burbank, which they had assembled relatively
4 quickly and had shown up the day before the
5 business meeting.

6 We have now received all of the
7 municipal utility filings, which completes all of
8 the filings. Staff has had a chance to review
9 those filings and has determined that the filings
10 are reasonably complete. That staff has the
11 information that we need to be able to do our work
12 on the demand forecast.

13 So, at this point, we consider the
14 demand side portion of this to be complete and
15 don't see a need for any enforcement actions.

16 In terms of the supply side filings,
17 those were due on March 1st. And at this point we
18 have received filings from all three of the
19 investor-owned utilities. And we have received
20 filings from 12 of the 13 municipal utilities or
21 irrigation districts that we were expecting them
22 from.

23 We have not yet received a filing from
24 Pasadena, at least as of the close of business
25 yesterday, but we are expecting their filing this

1 week. So we feel that we're in very good shape in
2 terms of the filings from those parties.

3 We're also working with the Northern
4 California Power Agency which is a power pool
5 representing a number of the smaller municipal
6 utilities in northern California. We're expecting
7 to actually receive a filing from them that would
8 cover a number of the smaller utilities that
9 otherwise would not be reporting to us at all. So
10 we feel that that's actually moving forward in
11 good shape.

12 We do have some small degree of concern
13 at this stage about the filing we received from
14 LADWP. There's some inconsistencies and a little
15 bit of missing information in what we received
16 from them.

17 At this stage we're working with them at
18 the staff level and feel that we're in good shape
19 in terms of working through those inconsistencies
20 and being able to get a good consistent set of
21 information.

22 So, at the moment we're not concerned
23 about that, but that is something we may want to
24 revisit in two weeks.

25 Finally, the last set of filers are the

1 electricity service providers. There are five
2 that we're expecting information from. We have
3 received, at this point, a filing only from one of
4 those. But we have also been in contact with
5 them. They had had concerns about one of the
6 forms which included contract information which
7 for the ESPs would actually have required them
8 doing a very large number of very detailed
9 information.

10 We had agreed with them at the staff
11 level initially that a more consolidated set of
12 filings for that would be appropriate. And that
13 had actually been part of the revised forms and
14 instructions that the Commission adopted on March
15 2nd.

16 So they have been working since then to
17 complete those filings. We're expecting those
18 later this week most likely.

19 I would like to suggest that we continue
20 this item over to the next business meeting. As I
21 say, in a number of spots we think we are in good
22 shape. We've been working at the staff level and
23 communicating in terms of where things are. But we
24 do need to hold out the possibility that there may
25 be problems in the next few weeks. Things that

1 we're expecting this week might end up not coming
2 in.

3 The other thing that we would want to do
4 in two weeks is provide the initial report on the
5 next set of filings we're actually -- which are
6 due on this Friday, April 1st. So that would give
7 us an opportunity to give an initial status report
8 and indicate whether there are any compliance
9 problems that we're having at that stage with
10 those filings.

11 So, as I say, at this point we're not
12 recommending any enforcement action or subpoena at
13 this time, but we do believe that it would be
14 useful to carry over this item with the
15 possibility of enforcement action or subpoena to
16 the next business meeting, particularly focused on
17 the March 1st filings.

18 ACTING CHAIRPERSON PFANNENSTIEL:
19 Commissioner Boyd.

20 COMMISSIONER BOYD: Mr. Kennedy, one,
21 I'm pleased to hear that you feel that things are
22 well enough to be left as-is at the moment. But I
23 did note that what you said about the NCPA issue
24 was almost verbatim what you said at the last
25 meeting about the NCPA situation. So I'm taking

1 it on, you know, on your word that you feel things
2 are moving along.

3 The other items are kind of new little
4 ripples on the pond. But hopefully you'll be able
5 to report some finalization of the efforts you're
6 having with those folks soon.

7 MR. KENNEDY: I certainly hope so. What
8 I had understood from the staff who have been most
9 directly in contact with them two weeks ago is
10 that at that point we were actually hearing some
11 degree of resistance to the notion that they would
12 provide us something.

13 What's happened since then is we've been
14 working together with them; they've agreed that
15 they will be providing us some information. We're
16 working through the details on exactly how and
17 when.

18 So one of the tricks with the NCPA
19 filing is that in the forms and instructions it
20 was essentially left a little bit ambiguous
21 whether or not they would be required to file. We
22 essentially, in what was adopted, held out the
23 possibility that we could require that but did not
24 actually make that a specific requirement.

25 At this point, as I understand it, we

1 are in good shape in terms of their agreeing to
2 put something together. So that is something that
3 I -- it's one of the ones that I'm a bit unclear
4 exactly what I'll be reporting in two weeks, but
5 it does seem to be moving in the right direction.

6 COMMISSIONER BOYD: All right, thank you
7 for that augmentation. You did add a little more
8 to it.

9 MR. KENNEDY: Yeah.

10 ACTING CHAIRPERSON PFANNENSTIEL: Other
11 comments? So we will continue this item till next
12 time. Thank you, Kevin.

13 MR. KENNEDY: Thank you.

14 ACTING CHAIRPERSON PFANNENSTIEL:
15 Minutes? Do I have a motion to approve the
16 minutes from the March 16th meeting?

17 COMMISSIONER GEESMAN: So moved.

18 COMMISSIONER ROSENFELD: Second.

19 ACTING CHAIRPERSON PFANNENSTIEL: Moved,
20 Geesman; seconded Rosenfeld.

21 All in favor?

22 (Ayes.)

23 ACTING CHAIRPERSON PFANNENSTIEL:
24 Commission Committee and Oversight. I have
25 nothing. Anybody have anything to report? No.

1 Nothing there.

2 Chief Counsel's report.

3 MR. CHAMBERLAIN: Yes, Madam Chair. As
4 I have indicated by email to you we made a filing
5 last Thursday in the California Supreme Court in
6 the Baykeeper case involving the El Segundo case.
7 And I would like to offer any of you who might
8 want a hard copy of that document, I'll be happy
9 to have one prepared for you.

10 It's my understanding the rules used to
11 be that we simply made these initial oppositions,
12 and then if the court would want to take the case
13 they would tell us and they would give us an
14 indication what issues we should cover in any
15 further briefing, or whether they required a
16 complete record.

17 That's still the case, but they've added
18 something new to it. First of all, they've
19 extended our time from five days to ten days, for
20 which I was grateful. But they have also added a
21 ten-day reply period, so that the Baykeeper
22 parties will be able to reply by this Monday.

23 I have also heard this morning that
24 there is a possibility that the Coastal Commission
25 may file an amicus brief in support of their

1 petition.

2 And that's my report today.

3 ACTING CHAIRPERSON PFANNENSTIEL: Thank
4 you. Executive Director's report, Scott.

5 ACTING EXECUTIVE DIRECTOR MATTHEWS:

6 Thank you, Madam Chair. First of all, let me say
7 that I am humbled and excited by this assignment.
8 I have met with each of you, except for I haven't
9 caught up with Art yet, and had a long session. I
10 appreciate the advice and input that you've given
11 me.

12 I am going to continue a series of
13 individual meetings with the Governor's Office and
14 ISO, ARB, PUC, EPA, et cetera.

15 I found in the discussions I've had so
16 far some common themes that you have given me, and
17 that others have given me. At the completion of
18 my round of discussions with individuals I'm going
19 to give you a report to tell you the kind of input
20 that I've gotten about the Energy Commission, what
21 others think about the important things we should
22 concentrate on.

23 The budget hearings are starting up. We
24 had our first premeeting with the Assembly Staff
25 last week on the 25th; provided them some

1 information, background information for the most
2 part. There were some detailed questions about
3 PIER and the way we do PIER.

4 That hearing will be on April 6th.
5 Commissioner Pfannenstiel and I will go. We hope
6 that we will get an agenda and some questions
7 before we go that would help us focus on the kind
8 of information that the members, themselves, want,
9 as opposed to the staff.

10 The Senate will have its premeeting so
11 staff and I will meet with them on April 6th; and
12 then the hearing will be on April 18th.

13 Finally, in the IT world we are doing a
14 remote access project, now in the pilot stage.
15 Where you, from home, will be able to do, from
16 your computer, exactly what you can do here with
17 the exception that you can't get to your C drive.
18 So it'll look and feel, from your home computer or
19 wherever you are, just like you do here at the
20 Energy Commission, plus you'll get all the
21 software that's available. So it makes it a lot
22 better. We're going to try the pilot first to get
23 through all the glitches before we expand it out
24 to other users.

25 ACTING CHAIRPERSON PFANNENSTIEL:

1 Excellent.

2 COMMISSIONER ROSENFELD: Since I'm in
3 Berkeley some of the time I think that's a
4 wonderful idea.

5 COMMISSIONER BOYD: Promises, promises.

6 (Laughter.)

7 ACTING EXECUTIVE DIRECTOR MATTHEWS:

8 That's why we're doing a pilot.

9 (Laughter.)

10 ACTING CHAIRPERSON PFANNENSTIEL:

11 Thanks, Scott. Leg Director? No leg report.

12 Public Adviser report.

13 MR. BARTSCH: Nothing to report, Madam
14 Chair.

15 ACTING CHAIRPERSON PFANNENSTIEL: Public
16 comment. I have no other blue cards, but is there
17 anybody in the public wishing to make a comment?

18 Hearing none, the meeting is adjourned.

19 (Whereupon, at 10:41 a.m., the business
20 meeting was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Business Meeting; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
business meeting, nor in any way interested in
outcome of said business meeting.

IN WITNESS WHEREOF, I have hereunto set
my hand this 5th day of April, 2005.

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